

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LUIS GERARDO DEGANTE,

Plaintiff,

v.

ERNESTO GONZALEZ and GAYLON
PERRY RIDDLES,

Defendants.

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Civil Action No. 4:21-cv-00548

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Judge Mazzant/Judge Davis

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MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On August 9, 2024, the Magistrate Judge entered a Report and Recommendation (Dkt. #34) that Defendant Ernesto Gonzalez's Motion to Dismiss Complaint for Lack of Subject Matter Jurisdiction and Failure to State a Claim (Dkt. #25) be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is therefore **ORDERED** that Defendant Gonzalez's Motion to Dismiss (Dkt. #25) is hereby **GRANTED IN PART** and **DENIED IN PART**. Defendant Gonzalez's Motion to Dismiss (Dkt. #25) is denied to the extent that it seeks dismissal of Plaintiff Degante's claims against Defendant Gonzalez for lack of subject matter jurisdiction and it is granted to the extent that it seeks dismissal of Plaintiff Degante's claims against Defendant Gonzalez for failure to state a claim.

It is **FURTHER ORDERED** that Plaintiff Degante's claims against Defendant Gonzalez are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

SIGNED this 23rd day of September, 2024.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE